

Message

From: Beck, Whitney [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=95A55FA866614CF99239EF6C3509B71E-BECK, WHITN]
Sent: 1/5/2021 8:49:13 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Hurlid, Kathy [Hurlid.Kathy@epa.gov]
Subject: RE: questions on the codification rule.

Never mind! Moot point. OFR doesn't allow citations (including FR citations) in the summary anyway 😊

From: Beck, Whitney
Sent: Tuesday, January 5, 2021 3:34 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Subject: RE: questions on the codification rule.

The second sentence says:

EPA approved Florida's assumption of the section 404 program on December 17, 2020. See 85 FR 57853.

Shouldn't that be the approval FRN, which is 85 FR 83553?

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Tuesday, January 5, 2021 3:31 PM
To: Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>
Subject: RE: questions on the codification rule.

Sure; thanks!

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Sent: Tuesday, January 5, 2021 3:29 PM
To: Beck, Whitney <beck.whitney@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: questions on the codification rule.

Ex. 5 Deliberative Process (DP)

From: Beck, Whitney <beck.whitney@epa.gov>
Sent: Tuesday, January 5, 2021 2:59 PM
To: Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: questions on the codification rule.

Sure, I don't see why not. After David reviews we could add them before passing up to OW, if that's okay with Simma from an OGC clearance perspective. I was also thinking our summary should cite to the approval FRN (85 FR 83553) not the request for comments FRN in the second sentence, so I'll fix that if you both agree.

Best,

Whitney

From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Sent: Tuesday, January 5, 2021 2:47 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>
Subject: RE: questions on the codification rule.

It would. Whitney do you think we can make these? I'm happy to reach out to Mindy.

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Tuesday, January 5, 2021 2:14 PM
To: Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>
Subject: RE: questions on the codification rule.

Hi Kathy,

Apologies for the delay – I have been in meetings. I don't have any concerns about making these edits. Would those assuage your concerns? If not, and you still want to talk, just let me know (though I am on a call now.)

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Sent: Tuesday, January 5, 2021 12:22 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>
Subject: RE: questions on the codification rule.

Hi Simma,

I Left you a VM and it may be that I **Ex. 5 Deliberative Process (DP)**
Ex. 5 Deliberative Process (DP) am forwarding these suggested changes, not a final change but to try to explain my thinking and why I'm raising the concern. - Kathy

Ex. 5 Deliberative Process (DP)

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Tuesday, January 5, 2021 11:44 AM
To: Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>
Subject: RE: questions on the codification rule.

Ex. 5 Deliberative Process (DP)

I'd be happy to discuss further if you need more information; not sure if I've answered all of your questions.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Sent: Tuesday, January 5, 2021 11:37 AM
To: Beck, Whitney <beck.whitney@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: questions on the codification rule.

Ex. 5 Deliberative Process (DP)

From: Beck, Whitney <beck.whitney@epa.gov>
Sent: Tuesday, January 5, 2021 11:36 AM
To: Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: questions on the codification rule.

Well, OFR is the one who asked us to include the template NARA language, so they are okay with it. And I don't think the public necessarily needs that detail?

If we make any changes now, we need to send a new version over to OFR which I think we want to avoid unless something is inaccurate.

From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Sent: Tuesday, January 5, 2021 11:33 AM
To: Beck, Whitney <beck.whitney@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: questions on the codification rule.

So should we explain that in the notice?

From: Beck, Whitney <beck.whitney@epa.gov>
Sent: Tuesday, January 5, 2021 11:03 AM
To: Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: questions on the codification rule.

Ah yes, that is the NARA language! OFR is within NARA so OFR is keeping the compilation, but it's described as NARA.

Good memory, Kathy.

From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Sent: Tuesday, January 5, 2021 11:02 AM
To: Beck, Whitney <beck.whitney@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: questions on the codification rule.

Thanks Whitney that all makes sense but I thought the OFR kept "the book" aka "the compilation" somewhere? I don't see that anywhere. At least that is what I recall from our conversation with OGDW.

From: Beck, Whitney <beck.whitney@epa.gov>

Sent: Tuesday, January 5, 2021 10:53 AM

To: Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: questions on the codification rule.

Hi Kathy,

See below- let me know if that helps! I'll leave the first two questions to Simma.

Best,
Whitney

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Ex. 5 Deliberative Process (DP)

From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>

Sent: Tuesday, January 5, 2021 10:23 AM

To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>

Subject: questions on the codification rule.

Happy New Year!.

Simma and Whitney, thanks for all your work on this last week and yesterday. I've a few questions for clarity.

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Ex. 5 Deliberative Process (DP)

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- # Ex. 5 Deliberative Process (DP)

Respectfully,

Kathy Hurl

Clean Water Act 404(g) – U.S. EPA Lead

Office of Wetlands, Oceans, and Watersheds

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Phone: 202-566-1269

Currently working remotely during COVID-19; please call: **Ex. 6 Personal Privacy (PP)**